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Paper No. 23

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OFFICE OF PETITIONS

ON PETITION

In re Application of: .
Tucker et al.
Filed: October 1, 1998
Application No. 09/164,714
Dckt No.: 7969-074-999

This is a decision on the petition filed April 15, 2002 under 37 CFR 1.10(c), requesting that (1) those papers currently indicating a date of deposit with the USPS of March 14, 2002, be accorded a date of deposit of March 13, 2002, (2) the RCE request filed March 13, 2002, be treated as such and not as a CPA request, such that this application is not subjected to pre grant publication and (3) a corrected filing receipt be issued

The petitions under 37 CFR 1.10(c) are **granted**.

In support of the petition, petitioner includes a copy of Express Mail Label No. EL477035130US which shows a "date-in" of March 13, 2002. Since the papers all currently indicated to have a filing date of March 14, 2002 (paper Nos. 15-18), which include the RCE request, have affixed thereon that Express Mail Label Number, all those pieces of correspondence are entitled to March 13, 2002, as the date of receipt at the USPTO. See 37 CFR 1.6. The application No. on the postcard receipt is an inadvertent error; no continuation of this application was created, and that number has no bearing on or relation to this case.

Since the RCE request was improperly treated as a CPA request; any indication of pre grant publication was issued in error and has been removed from USPTO records.

This application is being returned to Technology Center AU 1633 for **changing USPTO file and PALM EXPO records consistent with this decision**, That is, paper Nos. 15-18 will show a date of receipt of March 13, 2002, and the CPA request will be changed to, and processed as, an RCE request. A corrected filing receipt is enclosed with this decision.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner for
Patent Examination Policy

Enclosure: Corrected Filing Receipt